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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,139	11/03/2003	Wayne Van Ethen	1609 - 1	3713

7590 06/29/2004

JOHN MAIER, III
666 AARON COURT
KINGSTON, NY 12401

EXAMINER

SZUMNY, JONATHON A

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 06/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/700,139

Applicant(s)

ETTEN, WAYNE VAN

Examiner

Jon A Szumny

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4 and 6-20 is/are rejected.
- 7) ☒ Claim(s) 3 and 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/3/03
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

This is the first office action for application number 10/700,139, Tube Retainer, filed on November 3, 2003.

Information Disclosure Statement

Receipt is acknowledged of Form PTO-1449, Information Disclosure Statement, which has been reviewed by the Examiner.

Drawings

The drawings are objected to under 37 CFR 1.83(a) because they fail to show FIG. 2C as described in line 12 of page 7 of the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the

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drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities:

On page 8, line 4, "peaks 67" should be --peaks 63--.

Appropriate correction is required.

Claim Objections

Claims 2-9, 11-17, 19 and 20 are objected to because of the following informalities:

In claims 2-9, 11-17, 19 and 20, line 1, "A" should be --The--;

In claim 9, line 1, "contoured" should be --a contoured--;

In claim 10, lines 5-6, "inner surface and a groove located" should be --inner surface, and a groove is located--;

In the last line, "a right" should be --right--;

In claim 18, line 7, "located on the outside" should be --is located on the outer--;

In line 11, "that the" should be --than that of the--;

In line 13, "the pin" should be --each pin--;

In line 14, "the pin" should be --each pin--;

In line 19, "pin, the channel" should be --pins, the channels--;

In claim 20, line 1, "is" should be --is a--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter that the applicant regards as his invention.

Claims 6, 7 and 10-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 6, lines 2-3, it is stated that the "channel" has "substantially the same size and configuration as the channel". This is unclear. For this reason, claim 6 will not be further treated on the merits.

Claim 7 recites the limitation "the groove" in line 3, claim 10 recites "the bevel" in the last line, claim 14 recites "the holes" and "the pins" in line 1, and claim 18 recites "the bevel" in the last line. There is insufficient antecedent basis for these limitations in the claims.

With respect to claim 12, it is stated in lines 1-2 that the cylindrical housing has a "groove". However, claim 10 already recited a "groove", and there is only one groove shown on the housing, for instance in figure 2. Therefore, this is double inclusion.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

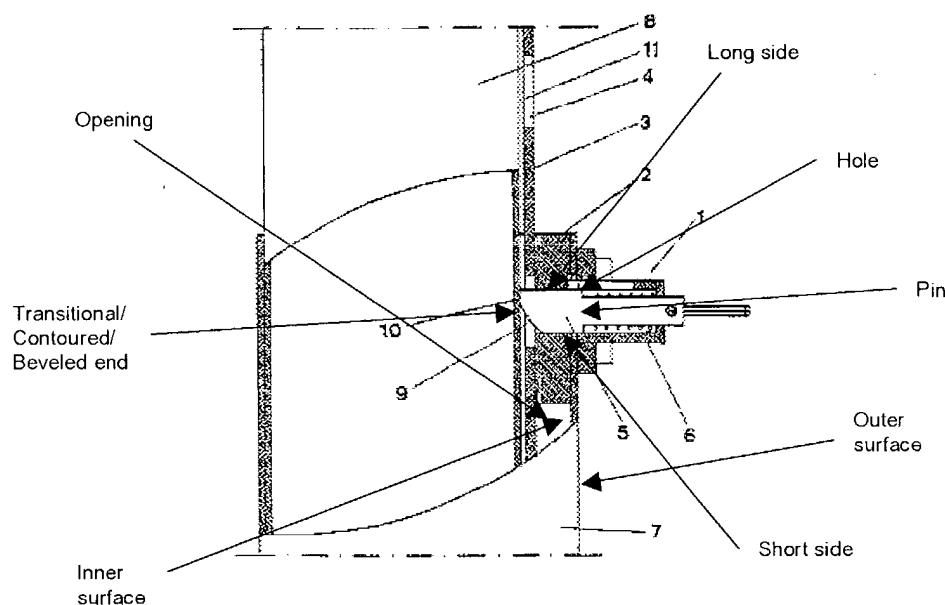
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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 6,398,445 to Matali Badia.



Matali Badia '445 discloses a retainer (above) comprising a cylindrical housing (7, see curved section lines above, further, column 1, lines 14-15 state that traditional systems utilize "tubes" which are defined in Merriam Webster's Collegiate Dictionary - 10th Edition as "any of various... cylindrical structures or devices..."), with an outer surface (above) and an opening (above) through it that is concentrically located in the

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housing, the opening having an inner surface (above) and further having at least one hole (above) extending radially from the inner surface to the outer surface, a pin (above) having a top surface (above) and short and long sides (above), the pin being mounted to slide in the hole, the pin further having a transitional end (above) between the long side and the short side, the transitional end extending beyond the inner surface into the opening, and means (6) for forcing the pin toward the opening, wherein the transitional end is a beveled/contoured end.

Claims 1, 2 and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent number 6,575,656 to Suh.

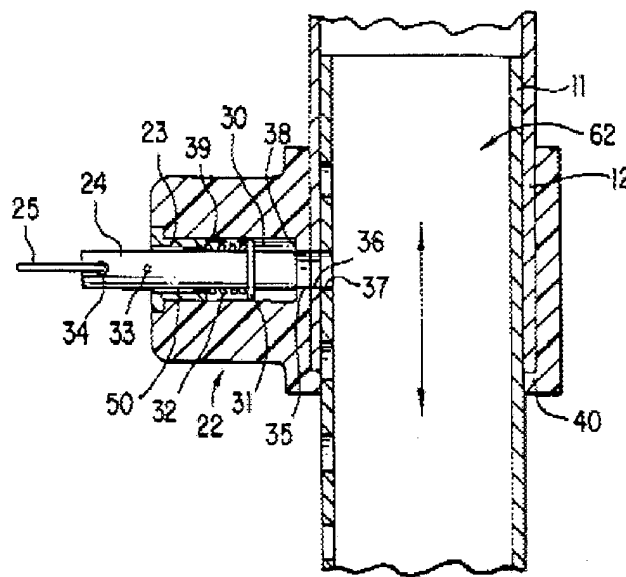


FIG. 3

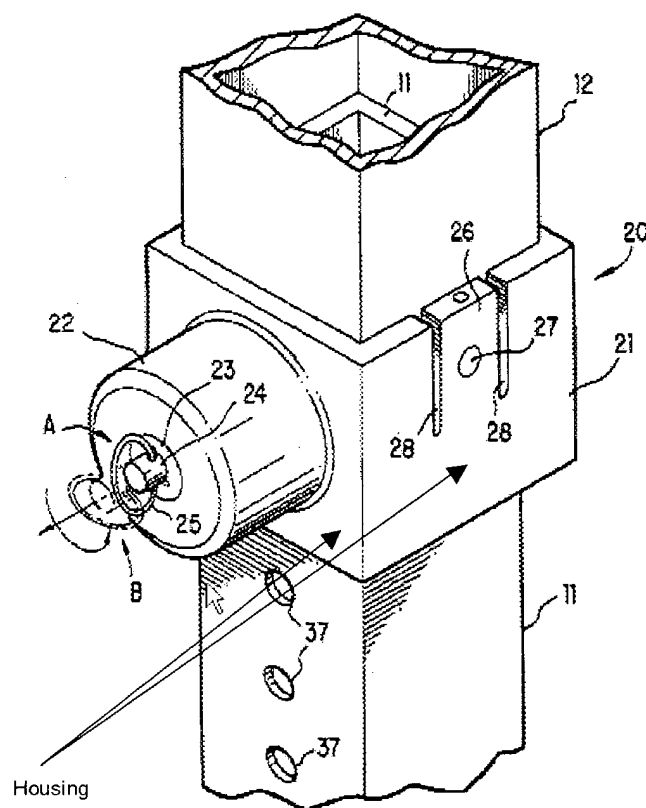


FIG. 2

Suh '656 discloses a retainer (above) comprising a cylindrical housing (above, see column 4, lines 36, "circular"), with an outer surface (above) and an opening (above) through it that is concentrically located in the housing, the opening having an inner surface (above) and further having at least one hole (above) extending radially from the inner surface to the outer surface, a pin (above) having a top surface (above) and short and long sides (above), the pin being mounted to slide in the hole, the pin further having a transitional end (above) between the long side and the short side, the transitional end extending beyond the inner surface into the opening, and means (6) for forcing the pin toward the opening, wherein the hole has an upper section (above) with a cross-sectional area and a lower section (above) with a cross-sectional area smaller

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that that of the upper section, wherein the cylindrical housing has a groove (above) located about the outer surface.

Allowable Subject Matter

Claims 3 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 10 and 18 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Claims 7, 11-17, 19 and 20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 3, the prior art as applied against claim 2 failed to further specifically teach the lower section to be longer than the upper section.

Regarding claim 5, the prior art as applied against claim 1 failed to further specifically teach the cylindrical housing to have a groove located about the outer surface such that the hole extends from the groove on the outer surface.

Regarding claims 7, 10 and 18, the prior art as applied against claim 1 failed to further specifically teach a channel to be in the top surface of the pin, the channel having substantially the same size and configuration as a groove and wherein the

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means for forcing the pin toward the opening is an O-ring located in the groove and the channel.

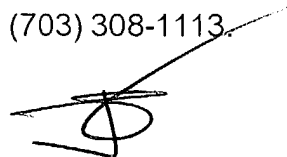
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hynes '625, Kass '278, Williams et al. '192, Ramazzotti et al. '140, Leto '281 and Miyamoto et al. '865 all divulge various cylindrical retainers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon A Szumny whose telephone number is (703) 306-3403. The examiner can normally be reached on Monday-Friday 8-4.

The fax phone number for the organization where this application and proceeding are assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Jon Szumny
Patent Examiner
Technology Center 3600
Art Unit 3632
June 17, 2004



ANITA KING
PRIMARY EXAMINER